

Managed Risk Medical Insurance Board
June 23, 2008 Public Session

Board Members Present: Cliff Allenby, Areta Crowell, Ph.D., Sophia Chang, M.D., M.P.H., and Richard Figueroa, M.B.A.

Ex Officio Members Present: Augustin Jimenez (on behalf of the Secretary for Business, Transportation and Housing), Bob Sands (on behalf of the Secretary for California Health and Human Services Agency), and Jack Campana (representing the Healthy Families Advisory Panel).

Staff Present: Lesley Cummings, Laura Rosenthal, Terresa Krum, Janette Lopez, Ernesto Sanchez, Ronald Spingarn, Irma Michel (acting), Larry Lucero, Thien Lam, Will Turner, Seth Brunner, Naomi Yates, Joanne French, Marlene Ricigliano, Sarah Swaney, Brian O'Hara, Kathy Dobrinen, and Jackie Ratliff.

CALL TO ORDER

Chairman Allenby called the meeting to order at 10:15 a.m. The Board then went into Executive Session. It reconvened for public session at 11:05 a.m.

Chairman Allenby asked Ms. Irma Michel to come forward, thanked her for her work as Acting Deputy Director for Eligibility, Enrollment and Marketing for the last 4.5 months, and said that MRMIB has been lucky to have her on its team for so many years. Ms. Michel said it has been an honor to work with MRMIB. Executive Director Lesley Cummings said that after Ms. Michel leaves MRMIB's employ she would be working on a children's health coverage project funded by the Packard Foundation. Thus, she will continue to work with MRMIB in another capacity.

Ms. Cummings thanked the staff who prepared materials and arranged logistics for this month's Board meeting while she was on vacation, in particular Chief Deputy Director Janette Lopez, Chief Counsel Laura Rosenthal, and Office Technician Marlene Ricigliano.

Ms. Cummings welcomed Stacey Sappington who will join MRMIB on July 1 as the Executive Assistant to the Board.

REVIEW AND APPROVAL OF MAY 21, 2008 PUBLIC SESSION MINUTES

The board reviewed the minutes from the May 21 meeting and unanimously approved them.

The document is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_3.pdf.

STATE BUDGET UPDATE

Ms. Terresa Krum, Deputy Director for Administration, presented a summary of actions by the Governor, Senate, Assembly and Budget Conference Committee on the Healthy Families program's (HFP) proposed budget.

The document is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/agenda_item_4.pdf.

Chairman Allenby asked if there were any questions or comments. There were none.

HEALTH CARE REFORM: NEXT STEPS

Mr. Ernesto Sanchez, Deputy Director for Eligibility, Enrollment and Marketing and formerly the Assistant Deputy for Health Care Reform, discussed with the Board the next steps for health care reform. The Governor is contemplating a two staged effort. Phase 1, to be undertaken this year, will address incremental steps with no General Fund cost that will establish a good base for larger reform. Phase 2, to be undertaken when the state's fiscal situation has improved, will focus on the big ticket items of reform such as coverage expansions, mandates, etc. Mr. Sanchez reviewed a document, prepared by the Insure the Uninsured Project (ITUP) that highlights elements of health care reform proposals from last year that may be addressed in Phase 1.

The document is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_5-ITUP_HCR_Continues.pdf.

Chairman Allenby asked if there were any questions or comments. There were none.

FEDERAL BUDGET, LEGISLATION AND EXECUTIVE BRANCH ACTIVITY

August 17, 2007 CMS Letter Update. Ms. Cummings said that Centers for Medicare and Medicaid Services' (CMS) staff recently talked with MRMIB staff about a few issues related to a letter CMS issued August 17, 2007. The letter would alter State Children's Health Insurance Program (SCHIP) enrollment requirements, and limit State flexibility in administering SCHIP. CMS and MRMIB staff agreed to continue discussion so that California can obtain clarification on how CMS expects states to comply with the letter's terms.

SCHIP 2008/2009 Allocations. Ms. Krum presented a document showing California's SCHIP allotments from 1998/1999 to 2008/2009 Federal Fiscal Years (FFYs). A

recent Federal Register reported final 2008/2009 allotments. California initially received \$789 million and received an additional \$205 million to preclude a shortfall. The State also had \$296 million carryover funds from 2007 FFY, making its 2008/2009 total available funding \$1.290 billion. MRMIB staff anticipates up to \$1.283 billion in expenditures for FFY 2008/2009. This would leave only a \$7 million cushion for the current FFY. In FFY 2009/2010, California will initially receive \$799 million and, assuming \$7 million carryover funds, \$806 million would be available for that FFY. MRMIB staff project this funding would last for 7.5 months, through March 2009 when the Congressional SCHIP extension of funding ends. Based on projected expenditures, California needs \$1.272 billion in for all of FFY 2009/2010. This means a possible \$466 million funding shortfall for the remainder that FFY without timely Congressional action.

Chairman Allenby commented that the Board was well familiar with the 2009/10 funding shortfall.

Ms. Cummings agreed that the Board and staff had been aware that California would face a potential funding shortfall since late last year when Congress and the President settled on an 18-month SCHIP funding period instead of resolving the program's 5-year reauthorization. CMS will allow states to spend their FFY 2009/2010 allotment during the first 6 months of that year. Subsequent expected legislation would override this and give states additional funding for a longer period of reauthorization.

Chairman Allenby reminded everyone that FFY 2009 begins October 1, 2008, not far away. Ms. Cummings said that she anticipates anxiety about the potential funding shortfall in the not too distant future.

Chairman Allenby asked if there were any questions or comments. There were none.

The document is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_6b-SCHIP_Federal_Fund%20Chart-reflecting_CMS.pdf.

STATE LEGISLATION UPDATE

Regular Legislative Session

Legislative Bill Summary

Mr. Will Turner, Legislative Coordinator, presented a summary of the regular session bills of interest to the Board, highlighting new and amended bills. He indicated that MRMIB staff would speak in support of AJR 54 (Laird) and SB 697 (Yee) when the bills are heard in committees this week.

The document is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_7.a.1_leg_status_report.pdf.

Regarding AB 2967, Chairman Allenby asked if the California Health Policy and Data Advisory Commission (CHPDAC) within the Health and Human Services Agency is charged with the same tasks as the California Healthcare Cost and Quality Transparency Committee, potentially created by AB 2580. Mr. Turner said that the entity to be created under AB 2580 would have many of the same responsibilities as the CHPDAC in addition to new responsibilities.

Ms. Cummings told the Board that she had asked Ron Spingarn, Deputy Director for Legislation and External Affairs, to present information to the Board about bills that affect the individual health insurance market because of rescission, and their potential impact on Major Risk Medical Insurance Program (MRMIP).

Mr. Spingarn highlighted the following bills (summaries of the first four are on the document handed out by Mr. Turner), explaining what the bills would do, when the bills were being heard, and stakeholder support and opposition. He reviewed the following bills: AB 1150 (Lieu) – underwriting practices; AB 1945 (De La Torre) – coverage rescissions; AB 2549 (Hayashi) – coverage rescissions; SB 1440 (Kuehl) – plan loss ratios; SB 1522 (Steinberg – categorization of individual products); and AB 2569 (De Leon) – rescissions.

Regarding rescissions, Ms. Cummings pointed out that if regulators make it more difficult for health plans or insurers to rescind coverage, MRMIB staff anticipate health plans will become more vigorous in their underwriting practices, which will lead to greater numbers of people rejected from coverage, and, therefore, increased demand for MRMIP coverage.

Regarding categorization of products in the individual market, Ms. Cummings noted that this concept originated in the context of AB1X-1 where there would have been guaranteed issuance and rating rules. These features are not included in SB 1522. The categorization of products then requires a great deal of finesse as plans may be required to offer coverage, but they do not have to sell it. In addition, information on pricing is difficult because there is no limit on the variation in price.

Mr. Spingarn noted upcoming legislative deadlines and other relevant dates: June 27 (deadline for policy committees to pass bills to the Floor); July 3 (recess begins); August 4 (recess ends), and; August 31 (regular session ends).

Chairman Allenby asked for any questions or comments. There were none.

SPECIAL LEGISLATIVE SESSION

Mr. Spingarn said that there is nothing to report on this agenda item.

CONTRACT AMENDMENT

Public Health Institute

Ms. Krum requested authority to augment the contract with the Public Health Institute by \$115,220.

Dr. Crowell moved to adopt the resolution for this action. Dr. Chang seconded the motion. Chairman Allenby asked for any questions or comments. There was none. The Board unanimously passed the motion.

The document is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_8.a.pdf.

HEALTHY FAMILIES PROGRAM (HFP) UPDATE

Enrollment and Single Point of Entry Report

Mr. Sanchez reported that more than 872,553 children are enrolled in the HFP, and more than 34,000 new subscribers were enrolled last month. The last quarter reflected the largest number ever enrolled in a quarter since the program began. There are no major changes to subscribers' ethnicity. The majority enrolled continue to be Latino. The top five counties for enrollment continue to be in southern California, representing around 60 percent of total enrollment. Nearly 70 percent of applications received through the Single Point of Entry went to the HFP, about 26 percent to Medi-Cal and about 5 percent to both programs.

The report is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_9.a-HFP_Enr_SPE_Rpt.pdf.

Chairman Allenby asked for any questions or comments.

Ms. Cummings noted that July 1 marks the HFP's 10th Anniversary.

Administrative Vendor Performance Report

Mr. Sanchez presented the latest report to the Board. The contractor met all of its target goals.

The report is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_9.b-HFP_Admin_Vendor_Rpt.pdf.

Chairman Allenby asked for any questions or comments. There were none.

Enrollment Entities/Certified Application Assistants Reimbursement Report

Mr. Brian O'Hara, Enrollment Entities and Certified Application Assistant (EE/CAA) Section Manager, presented the EE/CAA report. In the current fiscal year, the HFP is paying an average of nearly \$506,558 per month and has paid \$5,572,140 total since the program was re-established. As of May, more than 20,000 CAAs were active. MRMIB has certified 3,715 CAAs since February 2005 through web-based training.

The report is located at
www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_9.c-EE_ReimRpt6.12.08.pdf.

Chairman Allenby asked if there were any questions or comments.

Ms. Cummings reported that in budget discussions, thus far, MRMIB has retained funding for CAA's. .

Chairman Allenby asked if there were any public questions or comments. There were none.

Health-e-App Public Access Update

Mr. Larry Lucero, Special Projects Manager, said that MRMIB staff previously reported to the Board that MAXIMUS subcontracted with the Center to Promote Healthcare Access to assess the requirements needed to make the Health-e-App electronic application available to the public. Currently, only CAAs and EEs may use the web-based application. A steering committee has been meeting to define the project's scope of work including assessing and identifying necessary changes to modify Health-e-App, and addressing the technical capacity to improve the current computer platform and user interface so that it may be used by both the public and also CAAs and EEs.

In addition, project staff are researching the possibility of including Annual Eligibility Review functions in the application, and enabling women to enroll into the Access for Infants and Mothers Program through the application. The application will be available in Spanish and English.

Project milestones, thus far, include: completion of an implementation workplan for the assessment phase (December 2007); completion of user sessions and focus groups (February and March 2008); technical sessions conducted (March and April 2008), and; focus group report completed (April 2008). Also, reports about the system requirements have been drafted and cost estimates are in process of being finalized. A final report containing cost estimates and an implementation workplan is due August 30.

Chairman Allenby asked if there were any questions or comments. There were none.

Award of Contract for Phases II and III of HFP Mental Health and Substance Abuse Services Evaluation

Dr. Chang motioned to authorize the Executive Director to enter into a contract with Innovative Resources Group, LLC, d/b/a Healthcare Midwest for \$266,000 through June 30, 2010. Dr. Crowell seconded the motion.

Ms. Sarah Swaney, Research Program Specialist, presented a proposed resolution for adoption which would enable the contractor to convene focus groups, review health plans' policies, operations, data systems, screening and assessment tools, and assess health plans' encounter and claims data.

Chairman Allenby asked if there were any questions or comments.

Dr. Crowell said she was glad to see the project move forward.

The Board unanimously adopted the resolution.

The document is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_9.e-Resolution_APS_Healthcare.pdf

Report on 2007 Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey and Young Adults Health Care Survey (YAHCS)

Ms. Mary Watanbe, Research Analyst, presented the 2007 HFP Member Satisfaction Report produced by the Benefits and Quality Monitoring (BQM) Division. This included a report on CAHPS for the general population, and a report on the Chronic Condition module of CAHPS and the YAHCS. As in previous years, Datastat, an independent vendor, conducted the surveys.

Ms. Watanabe began by discussing changes made from prior surveys. However, when MRMIB first administered the YAHCS, in which adolescents are interviewed, it did so in the summer. This time, it was administered in the fall of 2007 and there was a lower than expected response rate. Consequently, MRMIB staff learned that administering these surveys in the summer yielded a better response than the fall. Another issue with the first YACHS was that the sample size was too small to be able to assess the performance of the smaller plans. This time, MRMIB had DataStat pull the YAHCS sample first and then the CAHPS. The result was a representative sample for all 24 health plans for both YAHCS and CAHPS. Finally, in the most recent CAHPS, MRMIB staff also added on the chronic condition measurement set. This was administered to all of the survey participants. The chronic condition measurement set identifies how many HFP children had chronic conditions and compares their experiences with that of the larger population.

Ms. Cummings commented that in reviewing the results of the chronic condition one had to be aware that some questions were asked of parents whose children had a chronic condition and some were asked of the general population.

Ms. Watanabe highlighted findings that included:

CAHPS

- Results continue to be fairly positive. Parents give high ratings to their children's health plan, health care and providers.
- Children in HFP had higher satisfaction rates than those in Medicaid on average.
- An area that continues to be a troublespot is getting access to care quickly. HFP is well below the national Medicaid average
- The rates of children who get care quickly after it is needed continues to be a challenge, as the rates are well below the national Medicaid average for HFP and all HFP health plans.
- The report breaks out demographic information about subscribers, including ethnicity and language. As has been the case in the past, Asian language respondents have a lower satisfaction rate than other languages. Vietnamese speakers tended to report higher ratings than Chinese and Korean speakers.
- Several plans are significantly above or below the program average. Some showed significant improvement. BQM staff will be producing a more detailed analysis of the plan scores for the plan performance profiles that will be produced later in the year.
- HMOs had lower scores than EPOs.

CAHPS/Chronic Condition Measurement Set

- 10.5 percent of the 10,000+ survey respondents said their child had a chronic condition. Of these, 9.5 percent tried to get services for the child through the California Childrens Services (CCS) program. This shows that it is incorrect to think that all the children with chronic conditions receive their services from CCS.
- Parents of children with chronic conditions reported satisfaction rates less than 10 percent than rates for the general population Staff had expected a much larger difference, so this result is gratifying. Rates for some items most relevant to children with chronic conditions, actually were higher for children with chronic conditions.

YAHCS

- This is the second time MRMIB has surveyed teens via YAHCS. Teens could choose between completing the survey online or by mailing in a paper version. Four percent chose to complete the survey online this time, compared to three percent previously.
- The results are very sobering, even slightly worse than in the prior survey. It is not possible to compare the California results with other states as there is no current comparison data for YAHCS. The only comparison data available at all, the Child and Adolescent Measurement Initiative, is six years old and was a very small sample.
- The majority of teens consider themselves to be in good health, and very few reported engaging in risky behaviors. When they need care, they don't have a problem getting it. Few reported problems communicating with their doctor. And if they were one of the few to get counseling, they found it helpful.
- However, the number of teens who reported they had received counseling and screening, especially for risky behaviors, mental health, and prevention for sexually transmitted diseases and pregnancy, was very low. They also reported low scores for receiving care in a confidential and private setting.
- As part of the Phase II/III evaluation of plan provided mental health services, APS Healthcare will be looking at screening tools and best practices. BQM staff are hopeful that action steps will result from the evaluation which can be used to improve mental health and substance abuse services. Staff will also discuss the issue with the Advisory Committee on Quality.

Future funding for the surveys is a primary concern. The budget does not provide funding for surveys in 2008/2009. More stable funding sources are needed. Perhaps the surveys can be conducted in alternating years. It is more critical to have information from surveys in times of dwindling budgets in order to make better informed decisions about services. The next time that these surveys are conducted, MRMIB will need to solicit bids from vendors for a new contract and will be transitioning to a new fourth generation of the CAHPS.

Ms. Watanabe acknowledged the Datastat staff for doing a fantastic job administering surveys, and thanked Deputy Director of Benefits and Quality Monitoring, Ms. Shelley Rouillard, for her contributions to the report.

The report is located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_9.f-2007_HFP_Member_Satisfaction_Survey_Report.pdf

Chairman Allenby asked for questions or comments.

Board Member Jack Campana suggested that health plans assist in distributing data and results to providers from the California Healthy Kids Survey and the Centers for Disease Control and Prevention (CDC), Youth Risk Behavior Survey about high risk behaviors. Hopefully, this information will increase the number of providers who talk with youth about risky behaviors. Mr. Campana offered to provide the websites where the data may be accessed. Ms. Watanabe indicated that she had read some of the CDC information on adolescents and had been surprised that the top cause of death was specifically related to risky behaviors. In YAHCS, only 6 percent reported receiving counseling about depression and 8 percent about suicide.

Ms. Cummings said that ethnic, cultural and linguistic issues could matter a great deal regarding risky behaviors. Since Latinos make up a majority of HFP subscribers, it would be worth looking into whether there may be cultural issues associated with counselling on risky behaviors. Anecdotal evidence shows that Spanish-speaking persons have not readily accessed educational materials about mental health issues in San Diego county.

Dr. Crowell congratuated Ms. Watanabe for an outstanding, beautifully presented report. She said that she is distressed after many years of working with health plans that the plans' efforts at adopting best practices to reduce risky youth behaviors have not improved. She hopes that the APS study will provide a strong recommendation that addresses this. In the mean time, MRMIB should have special sessions with health plans to address this matter. Media reports have mentioned increased rates of suicide and sexually transmitted diseases among teens. Plans must be more attentive to the health of HFP children.

Ms. Cummings reiterated that there is no comparison group data for Dental CAHPS and YAHCS. She suggested to the National Academy for State Health Policy that it feature something on youth and adolescent health at its October conference. A MRMIB representative will present YAHCS results at that conference.

Ms. Watanabe added that there is no longer any CAHPS data from other states' SCHIP programs either as of 2006.

In response to Ms. Cummings earlier comments about San Diego county mental health services, Dr. Crowell suggested that the San Diego mental health program staff contact the Los Angeles mental health program which has done a lot of work involving families in addressing the counseling needs of Spanish-speaking persons.

Board Member Figueroa said that it may make sense to look at those health plans doing better than others, and to compare HMOs to each other, EPOs to each other, and the HMOs to the EPOs.

Chairman Allenby asked if there were any other questions or comments.

Ms. Brenda Kaplan, Blue Shield, said that it is important to discern the difference between CCS conditions and chronic conditions. Eligibility for CCS is only for very severe conditions. Ms. Watanabe added that BQM staff had added a question to the survey instrument asking how many respondents had tried to get treatment for their child through CCS. If they tried, the survey then asked about conditions that led a child to apply to CCS. Of 1,090 children with chronic conditions, 9.5 percent indicated that they had tried to get treatment from CCS.

Ms. Cummings thanked Ms. Watanabe for a correct, precise and beautiful report. Board Members Campana and Dr. Chang also complimented Ms. Watanabe.

Chairman Allenby asked if there were any more questions or comments.

Mr. Roberto Belloso, Los Angeles County, Department of Health Services, Community Health Plans, asked why the report did not establish benchmarks for plan performance. Ms. Watanabe agreed that benchmarks are needed but establishing them is challenging. Presently all that is available as a benchmark is the program average. This is less than ideal. BQM is committed to developing better benchmarks.

Mr. Belloso asked whether MRMIB would be conducting a survey in 2008-09 given the lack of funding. Ms. Cummings replied that the MRMIB staff thought it was particularly important to do a survey in 2008-09 given that there are likely to be changes in plan service areas due to rate reductions. Staff is trying to determine their options.

Adoption of Final Regulations to Implement AB 343 (2004) Provisions on Plan Transfers and to Clarify HFP Benefits

Dr. Crowell moved to adopt the resolution approving the final regulations. Dr. Chang seconded the motion.

Chairman Allenby asked if there were any questions or comments. There was none.

The Board adopted the resolution.

The documents are located at
www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_9.g.pdf.

ACCESS FOR INFANTS AND MOTHERS (AIM) UPDATE

Enrollment Report

Ms. Kathy Dobrinen, Contract and Marketing Manager, presented the latest AIM enrollment report. More than 1,190 women enrolled in May, making more than 7,700 total enrolled. Latinas continue to make up the majority of subscribers. Los Angeles,

San Diego, and Orange counties continue as the top enrollment counties, making up approximately 48 percent of the program's enrollment.

Chairman Allenby asked if there were any questions or comments. There were none.

The report is available at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_10.a-AIM_Enrollment_Rpt.pdf.

Administrative Vendor Performance Report

Ms. Dobrinen presented the latest report to the Board. The contractor met all of its target goals. Chairman Allenby asked if there were any questions or comments. There were none.

The report is available at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_10.b-AIM_Admin_Vendor_Rpt.pdf.

Financial Report

Ms. Jackie Ratliff, Financial Operations Officer, presented the latest financial report. Chairman Allenby asked if there were any questions or comments. There were none.

The report is available at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_10c-AIM_Financial_Report.pdf

Final Adoption of Regulations to Reduce Subscriber Contributions Following First Trimester Miscarriage and Clarify Procedural Requirements

Chief Counsel Laura Rosenthal explained that staff requested the Board to take final action to adopt AIM regulations which the board initially adopted January 16, 2008, for filing with the Office of Administrative Law (OAL). Staff conducted the required public comment period, followed by a second 15-day comment period resulting from staff's decision to recommend two modifications to the regulations adopted in January. Ms Rosenthal indicated that the materials before the board included the modified notice of proposed regulation (15-day notice) showing the proposed changes, a cover memo summarizing the requested Board action, a transcript from June 3rd public hearing, a summary of public comments and staff responses, and a packet including all written comments. All but the last letter were submitted during the initial public comment period. The final letter was submitted during the later 15-day comment period in response to the modified notice.

The documents are located at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_10.d.pdf

Ms. Rosenthal indicated that the original regulation package did two things: it discounted premiums by two-thirds for members who miscarry during the first trimester and it deleted the blanket 20-day advance notice applicable to all disenrolled subscribers and substituted language more clearly spelling out disenrollment dates for different categories of subscribers.

During the public comment period, MRMIB heard from groups who objected to the deletion of language providing all subscribers with 20-days notice prior to disenrollment, regardless of the reason for disenrollment. These groups argued that the change unfairly affected women who were disenrolled because coverage expires 60 days after pregnancy ends, as well as women disenrolled for other reasons. They objected to the potential for retroactive disenrollment of women who remain in the program more than 60 days after a pregnancy ends and they also suggested that women disenrolled for other reasons might not have adequate time to plan or challenge MRMIB's findings if the 20-day prior notice is deleted. Advocates also raised some of these concerns at earlier Board meetings.

Regarding the disenrollment of women whose coverage expires 60 days after the pregnancy ends (whether through miscarriage or live birth): As discussed at the January meeting, staff's view is that the subscriber is in the best position to know when her pregnancy ends and to inform the program. As long as program materials appropriately explain the scope of program coverage, a woman will not be disenrolled retroactively unless she fails to notify the program that her pregnancy has ended. Ms. Rosenthal indicated that staff do not agree with comments arguing that this approach violates due process or fairness. Subscribers are notified far in advance, at the beginning of their pregnancies, that AIM provides coverage for a limited period of time, consistent with the AIM statute and program funding.

Ms. Rosenthal indicated that staff believes the current materials are clear concerning the scope of the program's coverage but are working with advocates to ensure that the materials are as clear as they can be. Materials will include a new end-of-pregnancy notification in the program handbook to make the process even easier. Therefore, staff do not recommend reversing the Board's earlier decision deleting the 20-day notice prior to disenrollment for women in this category. However, to make the provision work better, staff recommend modifying the original language to spell out a subscriber's obligation to notify the program when her pregnancy ends.

Two groups submitted a joint letter opposing this clarification during the second public comment period. Their letter was included in the Board's packet. Staff continues to believe that this is an appropriate allocation of responsibility and a necessary part of the provision clarifying that coverage ends on the 61st day following the end of pregnancy. The amendment actually fixes an inconsistency in the existing regulations in that the length of coverage is specifically set out as a pregnancy plus 60 days while there is a contradictory 20-day disenrollment notice for women who remain in the program beyond 60 days.

Ms. Rosenthal then discussed the public comments asking MRMIB not to delete language providing 20-days notice to subscribers disenrolled for other reasons (fraud or ceasing to live in California). She stated that staff has accepted this critique and modified the proposed regulations. She indicated that the language in the original regulation package did not eliminate prior notice for these subscribers. However, while the earlier version broke out the different groups and detailed the disenrollment date and prior notice for each, it was drafted in a way that in some cases could have had the unintended consequence of reducing the amount of notice a subscriber received, depending on the date the program determined that she was no longer eligible. The modified language recommended by staff provides substantial prior notice, in some cases even more than the 20 days in the current regulations. Ms. Rosenthal thanked the members of the public who asked MRMIB to revisit this provision, saying that the modification represents an improvement and a better approach.

Ms. Rosenthal went on to address a few of the other substantive comments received.

A number of comments suggested that, instead of requiring a subscriber to inform the program about the end of her pregnancy, MRMIB should consider various administrative options to enhance the program's ability to get timely receipt of information about when a subscriber's pregnancy ends. Staff did not view these options as viable alternatives to the regulations. The program does employ a number of different approaches to get this information and is open to additional suggestions. But ultimately, none of the proposed options ensures that the program will get timely and accurate information about when a pregnancy ends. Ms. Rosenthal also indicated that staff's written responses to the public comments were not the appropriate place to point out where members of the public were correct or incorrect in describing current practices.

Some comments reiterated a request heard at a prior meeting that MRMIB require plans or providers to inform the program when a pregnancy ends. Ms. Rosenthal stated that, as staff previously explained, it is not realistic to add this provision to plan contracts and MRMIB has no direct authority over providers and no contractual relationship with them.

Some groups argued that the program should extend the premium discount for women who miscarry in their first trimester through the second trimester, or alternately, for the length of the pregnancy. Ms. Rosenthal indicated that staff did not recommend making this change. AIM is primarily an insurance program and charges a very modest premium. Subscribers do not pay co-payments or co-insurance for their health care, and the coverage provided is comprehensive, not just pregnancy related. The program does not base premiums on the amount of care a subscriber receives, or the cost of the care. And the program has limited funding. After discussions with advocates, staff did conclude that there was a possible fairness issue for women who miscarry in the first trimester. And specifying the first trimester also provided for a clear standard that the program could administer. But these same arguments do not apply convincingly to later miscarriages. In fact, some of the groups noted that the

level of medical care associated with later miscarriages can be greater and more complex and perhaps comparable to the medical care involved with a full term pregnancy.

Some groups argued that the discount should not be limited to miscarriages occurring in the first trimester because the line between first and second trimesters may be arbitrary or imprecise. However, the regulations, through the definition of first trimester, allow for individual medical determinations to allow for variations from one woman to the next.

Some comments raised issues beyond the scope of the regulations, such as the AIM appeal process. Staff did not take these up.

Ms. Rosenthal concluded her remarks by acknowledging Ms. Naomi Yates and Ms. Randi Turner for their work on the regulation package. She offered to answer any questions the Board might have.

Chairman Allenby asked if there were any questions or comments.

Dr. Crowell thanked MRMIB staff for the incredible amount of detailed work and their engagement with stakeholders. She pointed out a typo in the package, noting that in“(O)” on page seven the reference to subsection “(L)” should be “(N).” Ms. Rosenthal said that that change would not affect the regulations moving forward towards adoption and indicated that when the Board adopts the resolution submitted with this agenda item, it will be with the understanding that MRMIB staff will correct the proposed regulations as suggested by Dr. Crowell prior to submission to the OAL.

Dr. Crowell also suggested amending language in section “(O)” that introduces the list of documents to be provided for enrollment in the program. Ms. Rosenthal said that such a change would amend language already in existing regulations, and making such changes in a subsequent regulation package would be preferable to including the changes in the package under consideration at this meeting.

Dr. Crowell added that the success of efforts to clarify the program’s policies is largely contingent on the way MRMIB informs subscribers about their benefits that would end on the 60th day after their pregnancy ends, and such notice should be in large font, in a dramatic way, near where they sign the application.

Mr. Figueroa asked what happens if a woman does not inform MRMIB within 30 days of the end of her pregnancy. Ms. Rosenthal said MRMIB staff would prefer notice within 30 days because then the program can send her another notice about her benefits ending; this will be substantial prior notice. If she does not notify the program within 30 days, then the program could potentially disenroll her retroactive to the 61st day if it becomes aware of the end of her pregnancy after the 61st day. This is why staff wants to be clear about the woman’s obligation.

Mr. Figueroa asked whether a woman’s coverage would have to end in the first trimester for her to get the discount. Ms. Rosenthal replied that it did not, as long as

the miscarriage occurs in the first trimester. And given that her coverage is for 60 days after the miscarriage date, she likely would not still be in the first trimester when her coverage ends. If she miscarries in the first trimester, she receives the discount regardless of whether she informs MRMIB timely.

Chairman Allenby called for questions and comments from the audience.

Ms. Lucy Quacinella, representing Maternal and Child Health Access (M&CHA), made a number of comments.

She argued that the Board should not adopt a mandate on women to report in 30 days of the end of their pregnancy. Staff has included the mandate at the 11th hour of the process without adequate public notice. And if a woman reports on the 31st day, she could be in a very bad position. Further, if the regulations are going to require this (and M&CHA is opposed to doing so), they should then also detail what happens. The regulations should, for example, indicate that a woman who reports on the 25th day, gets a 20 day prior notice, and that a woman who reports within 30 days gets a notice of disenrollment before the disenrollment takes effect. She stated that, if these issues are not included in regulations, subscribers and advocates don't know what is going on and there is nothing to hold the program to its informal commitment, and that a key feature of due process is to provide prior warning

Ms Quacinella also stated that, if the Board proceeds with the mandate for a woman to report, the program should change the date of its case reviews. She asserted that presently the program does case reviews 11 months after a woman applies if the program has not received a notification of pregnancy. The review should be timed to more closely coincide with the date the pregnancy is expected to end, a piece of information included on the application. And the timing of the case reviews should be in regulations. Earlier case reviews would eliminate the retroactive disenrollment risk because the 60 day post-partum period would serve as a safety net. M&CHA submitted this comment during the first public comment period and MRMIB staff responded to the suggestion in its written summary and response. Ms. Quacinella believes staff misunderstood the comment, thinking that the suggestion was limited to contacting the subscriber close to the time of the estimated due date. That was not the recommendation. Whatever staff's concern is about contacting the subscriber, the program can look elsewhere to get the information. They could contact the plan. Because subscribers are billed monthly for coverage, they believe they continue to have coverage. They are billed for 12 months, and thus, think they have coverage for that time period. So early intervention is important to avoid retroactive disenrollments.

Ms. Quacinella recommended that the Board withhold adoption of the regulations to provide more time for public comment about the primary issue, which is the stripping away of the 20-day prior notice. With the additional time, it would be possible to work through how to mitigate the harm of retroactive disenrollment that occurs within the context of a mandate for subscribers to report on the end of their pregnancy within 30 days. There needs to be rules that take into account the situation of women who miscarry and miss the 30-day notice requirement and are retroactively disenrolled.

Ms. Quacinella asserted that earlier case reviews won't help these women as they are based on estimated delivery date. If this situation is not addressed, the problem that advocates brought to the Board, the situation of women who miscarry, remains an issue.

Ms. Quacinella maintained that the premium discount in the regulations would actually help very few women – 60 women a year. But the 13,000 other women in AIM are at a serious disadvantage because of the risk of retroactive disenrollment.

Chairman Allenby asked for any questions.

Ms. Rosenthal indicated that she would like to clarify a few points but first asked Chief Deputy Janette Lopez to brief the Board concerning some of the program's practices. Regarding Ms. Quacinella's point about women's possible confusion about coverage length because of monthly premium payments, Ms. Lopez explained that women who enroll in AIM are informed and have a choice about how they will pay. They may pay in full up front and receive a fifty dollar discount or can make monthly payments over 12 months. The program is very clear in regulations and the application that the AIM program covers a pregnancy plus 60 days so when electing to pay over the course of a year, a woman would clearly understand that she will be paying premium beyond the length of her coverage.

Regarding Ms. Quacinella's comment that case reviews should occur earlier than 11 months, Ms. Lopez indicated that the full process is as follows. When a woman is enrolled, she receives a welcome letter reminding her that coverage is for pregnancy plus 60 days. As previously noted, the information is also in the application and the regulations. The program estimates a subscriber's due date based on information she reports in the application. Thirty days before the estimated due date, the program sends the subscriber a notice reminding her that she needs to notify the program when she delivers. The primary purpose for this notice is to remind her to register her baby in the Healthy Families program. Contracts with AIM health plans also require that the plans send a similar letter 20-days before her estimated due date. The "11 month pregnancy report" is a last resort. The program generates an inquiry to the health plans, on women who have not reported the outcome of their pregnancy. Plans then contact providers to try to get the information. If the plan does not provide the information, the program contacts the woman directly, at every phone number and address on record, and sends written correspondence if needed. At this stage of the process, a woman is likely to be retroactively disenrolled, but the program has done everything possible at that point to remind her to notify the program of the outcome of her pregnancy and to enroll her infant in HFP. Ms. Rosenthal added that the 11 month report is dated from the beginning of the last menstrual period, not 11 months from the date of application.

Regarding Ms. Quacinella's comment that the clarification and specification of a woman's obligations to report is an 11th hour change and is not sufficiently related to the basic subject matter, Ms. Rosenthal expressed disagreement. During informal meetings with the advocates and during the January Board meeting, staff referenced

the fact that women are in the best position to know when they deliver. It has never been the case that a failure to notify the program entitles a woman to a longer period of coverage than pregnancy plus 60 days. As staff listened to advocate concerns about the deletion of the 20-day prior notice of disenrollment, staff concluded that it was appropriate to spell out the woman's obligation in regulations. Doing so is part and parcel of the proposals the Board has been considering and that it originally adopted in January.

Ms. Rosenthal also indicated that staff had no question that MRMIB had gone through the Administrative Procedure Act notice requirements. She pointed out that the required notice does not just consist of a title but includes the entire document that is sent to the public for comment.

Regarding the administrative alternatives Ms. Quacinella asked the Board to consider, staff have detailed the program's processes and are interested and open to improving and updating them. But it is not appropriate to put these business practices in regulations. They are not rules of general applicability.

Ms. Rosenthal also addressed Ms. Quacinella's recommendation that the Board defer adoption of the regulations so that they can be revised to be more specific about the notice. This is a judgement call for the Board. However, staff's view is that the fact that prior notice is not spelled out in the regulations does not preclude the program from providing prior notice. The purpose of requiring a woman to notify the program within 30 days of her delivery is so that the program can provide her with prior notice of disenrollment. But if the Board wishes to send the regulations back to specifically include this notice, staff can certainly develop language to do so. However, if the Board does not adopt the regulations at this meeting, the first trimester discount will not be available to women who enroll on or after July 1st, which was the Board's goal. And adopting the regulations today does not preclude making refinements in a later regulation package.

Mr. Figueroa informed the Board that that he is not prepared to vote on the regulations today because of several issues raised. He wants more time to read materials related to the issues and think about them. He would like the prior notice of disenrollment included in the regulations.

Chairman Allenby asked for any other comments from the Board.

Dr. Crowell said she had read all of the materials thoroughly. There is a line between administrative implementation and regulations. Over the years, the staff have made administrative changes that improve program operations. She thanked Ms. Quacinella for raising the issues she had noting that as a result of the discussion the Board has a lot more clarity about problems and how to resolve them. But she did not think that holding off on adopting the regulations because of the prior notice issue is necessary. On the other hand, since it will benefit only a small number of people a delay would not be the end of the world. She indicated that she felt unsure about whether to proceed with them or not.

Ms. Cummings informed the Board that staff had had to provide instructions to the administrative vendor to implement changes now so that the program could implement the discount on July 1st. It takes time to make these operational changes and MRMIB staff began preparing them a long time ago. Consequently, the vendor has made the systems changes to implement the regulations on July 1 so that the commitments made to the Board and advocates could be met.

Dr. Chang said the issue is whether the administrative approaches are substitutive or additive. After reading all the materials, she believes that they can be truly additive and do not have to substitute for regulations. She is confident that everyone shares the goal of doing the right thing for AIM subscribers. There need not be artificial conflict about the ultimate goal. In that vein and with that understanding, it seems reasonable for the regulations to move forward knowing that the program will continue to refine. And the Board and staff will work with those who work with AIM subscribers to understand the issues and develop further refinements. The Board and staff have thought a lot about this. An option is to adopt the regulations and work to continually improve administrative practices.

Dr. Crowell indicated she felt ready to vote to approve the regulations. She moved to adopt the regulations. Dr. Chang seconded the motion. Board Member Figueroa abstained from voting. The motion passed.

Ms. Rosenthal said that staff will file the regulations and continue to look at any future need to refine operations and work with interested parties.

MAJOR RISK MEDICAL INSURANCE PROGRAM (MRMIP) UPDATE

Enrollment Report

Ms. Naomi Yates, Health Policy Manager, presented the latest report to the Board. 7,305 persons were enrolled at the end of May (205 above the enrollment cap of 7,100). Reports for the last three months had overstated the total year-to-date applications received, but the current report reflects correct data.

The report is available at

www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_11.a-MRMIP_Enrollment_Rpt.pdf.

Chairman Allenby asked if there were any questions or comments.

Board Member Figueroa asked for an explanation of deferred enrollment. Ms. Yates said those persons in deferred enrollment are normally waiting to enroll because some other coverage, such as their COBRA coverage, has not yet ended.

Update on Enrollment Cap and Waiting List

Ms. Yates presented the latest report which shows 864 people waitlisted due to program closure. The report is updated on the MRMIB website weekly.

The report is available at
www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_11.b-MRMIP_Weekly_Wait_List.pdf.

Ms. Cummings reported that Ms. Yates has been working on a project to report case studies about MRMIP subscribers on the MRMIB website. These cases, about 20 of them, will include information about the subscribers and explain why they are in MRMIP. Due to privacy laws, no information will be used in the stories that may personally identify a subscriber. MRMIB staff expects to post the stories at www.mrmib.ca.gov this week.

Chairman Allenby asked if there were any questions or comments. There were none.

Administrative Vendor Performance Report

Ms. Yates presented the latest report to the Board. It shows that the administrative vendor has met all performance standards. The vendor implemented a new telephone line system for the MRMIP phone number on May 22. It appears more efficient for callers, and no issues have arisen from it.

Chairman Allenby asked if there were any questions or comments. There was none.

The report is available at
www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_11.c-MRMIP_Admin_Vendor_Rpt.pdf.

Financial Report

Ms. Ratcliff presented the latest report to the board. The report is available at
www.mrmib.ca.gov/MRMIB/Agenda_Minutes_062308/Agenda_Item_11.d-MRMIP_Financial_Report.pdf

There being no further business to come before the Board, Chairman Allenby duly adjourned the meeting at 1:20 pm.